

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Amendment of Part 95 of the</b>	)	<b>RM-10564</b>
<b>Commission's Rules to Prohibit</b>	)	
<b>Daily Business Communications</b>	)	
<b>On Family Radio Service Frequencies</b>	)	

**To: Chief, Wireless Telecommunications Bureau**

**COMMENTS OF KENWOOD COMMUNICATIONS CORPORATION, IN RESPONSE  
TO PETITION FOR RULEMAKING**

Kenwood Communications Corporation ("Kenwood"), by counsel and pursuant to Section 1.405 of the Commission's Rules (47 C.F.R. §1.405) hereby respectfully submits its comments in response to the *Petition for Rulemaking* (the Petition) filed on or about August 22, 2002 by the Industrial Telecommunications Association (ITA). The Petition was placed on *Public Notice*, Report No. 2576 on September 17, 2002. Therefore, these comments are timely filed. The Petition proposes to amend Section 95.401(b) of the Commission's Rules to prohibit daily business communications on Family Radio Services (FRS) frequencies.

**Statement of Interest**

Kenwood is a manufacturer of a variety of business and personal, two-way land mobile radio equipment that is distributed nationwide by Kenwood dealers. Among its product lines are FRS radios. Therefore Kenwood has a direct interest in ITA's petition.

**Discussion**

Kenwood strongly supports ITA's Petition for Rulemaking and requests that the Commission act upon ITA's Petition for Rulemaking in a timely and favorable manner by

issuing a Notice of Proposed Rule Making . Kenwood agrees with ITA's argument that widespread business use of the few FRS frequencies is not the intended use of the popular Family Radio Service as set forth in the Report and Order<sup>1</sup> creating FRS, and stands to severely limit frequency reuse. Furthermore, there are numerous options available for two-way business radio users, but few for non-business, short-range personal communications.

ITA has provided several examples in its Petition for Rulemaking of the intended family and recreation-oriented uses of FRS from the Report and Order.<sup>2</sup> Kenwood believes the following statement by the Commission sums up, and validates ITA's argument: "This new service will help fill a market niche in short distance, personal communications needs. The FRS will enable families, friends and associates to communicate among themselves within neighborhoods and while on group outings."<sup>3</sup>

The Commission reiterated throughout the Report and Order the "personal" nature of communications contemplated by FRS. In both the CB rules at 47 C.F.R. §95.401(a) and the GMRS rules at 47 C.F.R. §95.181(a), the FCC distinguishes between types of communications allowed by using the terms "personal" and "business". Kenwood believes that by not mentioning "business" communications in the FRS rules or in the Report and Order (other than in a reference to comments by the Personal Radio Steering Group at paragraph 15), the Commission intended to limit FRS use to "personal" use, as it rather plainly stated in the Report and Order.

Moreover, the limited number of channels assigned to FRS and limited power capabilities of FRS support the "personal" rather than widespread "business" use of FRS. Only fourteen

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<sup>1</sup> Part 95 of the Commission's Rules to Establish a Very Short Distance Two-Way Voice Radio Service, Report and Order, WT Docket No. 95-102 (rel. May 15, 1996) (hereinafter Report and Order).

<sup>2</sup> See Petition at pgs. 2-3.

<sup>3</sup> Report and Order at ¶ 2.

channels were allocated to FRS by the Commission, and these channels are either between existing GMRS repeater input channels or shared with GMRS users.<sup>4</sup> Kenwood suggests that the Commission could not have allotted only fourteen channels, interleaved with GMRS channels, for FRS use if the Commission anticipated that there would be widespread business use on the channels. The Commission supports this contention in the Report and Order. The Commission states that both FRS and GMRS are similar services in that “both are intended to operate in a shared environment and provide for the **personal** communications needs of the general public.”<sup>5</sup> The Commission also states that GMRS channels are not heavily used.<sup>6</sup> FRS channels have, by contrast, become extremely heavily used, in urban, suburban and rural environments. In many areas, such as shopping malls, the channels are quite full with families keeping in touch with each other. To allow these limited channels to be usurped in the same environments by business use would intensify channel congestion to the point that personal use would be compromised or precluded entirely. The Commission obviously did not intend widespread business use of these frequencies; whether or not the success of FRS was forecast, it is an extremely popular and successful concept, which should be protected.

In October of 1998, the Commission denied a Petition for Reconsideration by the Personal Radio Steering Group, Inc. (PRSG) that, in part, had asked to include a prohibition on using FRS channels for messages for hire.<sup>7</sup> While messages for hire are a subset of business communications in general, the Commission’s reasons for not prohibiting such communications are instructive. The Commission noted that “it is very unlikely that FRS would be used as a substitute for a commercial service given (1) its very low authorized power and limited range;

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<sup>4</sup> Report and Order at ¶ 6.

<sup>5</sup> Report and Order at ¶ 8.

<sup>6</sup> *Id.*

(2) its lack of exclusive channel assignments for any user.”<sup>8</sup> While this is further evidence that the Commission never intended FRS to be used in a large-scale fashion by businesses. Yet, it is increasingly being used in this fashion, despite the limited power, short range, and the absence of dedicated channels. There are so many low-cost alternatives to FRS for business use, and so few alternatives for personal radio use, this Petition makes inherent good sense from a spectrum management perspective.

The Commission’s clear intent to preserve the FRS for family and recreational use is circumvented by business use. As ITA correctly points out, while personal use of FRS is by its nature sporadic and normally of a short duration, business use is much more likely to occur daily and at a much more constant rate of channel loading. As the Report and Order and the FRS rules demonstrate, this type of business use is not in step with the goals of the FRS and thus is contrary to the public interest. Congestion of this small segment of spectrum by users not intended to use the spectrum defeats the purpose of allowing families the ability to communicate through radio personal radio devices.

Kenwood supports ITA’s Petition for Rulemaking and asks the Commission to initiate a

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<sup>7</sup> In the Matter of Amendment of Part 95 of the Commission’s Rules to Establish a Very Short Distance Two-Way Radio Service, RM-8499 (rel. Nov. 9, 1998).

<sup>8</sup> *Id.* at ¶ 9.

*Notice of Proposed Rulemaking* to restrict widespread, daily use of the FRS spectrum by business users.

Respectfully submitted,

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